

63G-12-205 Eligibility criteria to obtain and maintain a guest worker permit.

- (1) To be eligible to obtain or maintain a guest worker permit, an undocumented individual shall:
 - (a)
 - (i) be 18 years of age or older; or
 - (ii) if younger than 18 years of age, have the permission of a parent or guardian;
 - (b) live in Utah;
 - (c) have worked or lived in Utah before May 10, 2011;
 - (d) provide relevant contact information and regularly update the relevant contact information in a manner required by rule made in accordance with Chapter 3, Utah Administrative Rulemaking Act;
 - (e) provide documentation of a contract for hire under which the undocumented individual begins to provide services within at least 30 days of the day on which the undocumented individual obtains the permit;
 - (f)
 - (i) agree to a criminal background check described in Subsection (3); and
 - (ii) not have been convicted of, pled guilty to, pled no contest to, pled guilty in a similar manner to, or resolved by diversion or its equivalent to a serious felony;
 - (g) provide evidence satisfactory to the department that the person would not be inadmissible for public health grounds under 8 U.S.C. Sec. 1182;
 - (h)
 - (i) be covered by a basic health insurance plan; or
 - (ii) provide evidence satisfactory to the department that the undocumented individual has no medical debt that is past due and agrees to have no medical debt that is past due during the term of the permit; and
 - (i)
 - (i) hold a driving privilege card issued in accordance with Section 53-3-207; or
 - (ii) provide evidence satisfactory to the department that the undocumented individual will not drive a motor vehicle in the state.
- (2) The department may by rule made in accordance with Chapter 3, Utah Administrative Rulemaking Act, provide for the documentation required to establish eligibility under Subsection (1). When making a rule under this section, the department shall use federal standards as a guideline to avoid unnecessary duplication and additional costs.
- (3)
 - (a) The department shall require an undocumented individual applying for a guest worker permit, or renewing a guest worker permit, to submit to a criminal background check as a condition of receiving or renewing the guest worker permit.
 - (b) An undocumented individual required to submit to a criminal background check under Subsection (3)(a), shall:
 - (i) submit a fingerprint card in a form acceptable to the department; and
 - (ii) consent to a fingerprint background check by:
 - (A) the Utah Bureau of Criminal Identification; and
 - (B) the Federal Bureau of Investigation, including the secure communities program when possible.
 - (c) For an undocumented individual who submits a fingerprint card and consents to a fingerprint background check under Subsection (3)(b), the department may request:
 - (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

- (ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system and secure communities program.
- (d) Information obtained by the department from the review of criminal history records received under this Subsection (3) shall be used by the department to determine eligibility to obtain a permit.
- (e) The department shall:
 - (i) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under this Subsection (3); and
 - (ii) in accordance with Section 63J-1-504, charge the undocumented individual applying for the permit a fee equal to the aggregate of the costs incurred by the department under this Subsection (3) and the amount paid under Subsection (3)(e)(i).

Enacted by Chapter 18, 2011 General Session